

APPEAL NO. 040298
FILED MARCH 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 8, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury; that the date of the alleged injury pursuant to Section 408.007 was _____; that the respondent (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified the employer of the alleged injury; and that the claimant has not had disability. The claimant appeals, contending that the hearing officer's determinations that she did not sustain a compensable repetitive trauma injury and that she has not had disability are contrary to the overwhelming weight of the evidence. The carrier asserts that sufficient evidence supports the appealed determinations. There is no appeal of the hearing officer's determinations on the issues of date of injury or timely reporting of the injury to the employer.

DECISION

Affirmed.

The claimant claims that she sustained a repetitive trauma injury to her lower back as a result of performing her work activities as a dump truck driver for the employer. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36) and that she had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge